

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 11, 2005

AMENDED IN SENATE APRIL 26, 2005

SENATE BILL

No. 1087

Introduced by Senator Florez

February 22, 2005

An act to amend Section 65589.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as amended, Florez. Housing elements: services.

(1) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. That law also requires that the housing element adopted by the legislative body of the city, county, or city and county and any amendments made to that element be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body.

The Planning and Zoning Law also requires each public agency or private entity providing these services to grant a priority for the provision of available and future resources or services to proposed housing developments that help meet the legislative body's share of the regional housing need for lower income households as identified in the housing element and any amendments to the housing element.

This bill would require that the adopted housing element and any amendments be delivered immediately to all public agencies or private

entities that provide water resources or services at retail or sewer resources or services, as specified, would apply these provisions to proposed developments that include housing units affordable to lower income households, and would require, on or before July 1, 2006, that these public agencies or private entities adopt a *written policy with specific objective standards* for the allocation of these services in conformance with these provisions. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

This bill would also provide that a provider of water or sewer services may not deny or condition the approval of an application for services, or reduce the amount of the services applied for, if the proposed development includes housing affordable to lower income households and ~~would require the local planning agency or the legislative body to deny an application for any residential or nonresidential development if it makes a written determination that these provisions have not been complied with~~ *authorize an appropriate civil action to enforce the provisions of the bill, as specified.*

The bill would make these provisions applicable to charter cities.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65589.7 of the Government Code is
- 2 amended to read:
- 3 65589.7. (a) The housing element adopted by the legislative
- 4 body and any amendments made to that element shall be
- 5 immediately delivered to all public agencies or private entities
- 6 that provide water resources or services at retail or sewer

resources or services within the territory of the legislative body. When allocating or making plans for the allocation of available and future resources or services designated for residential use, each public agency or private entity providing water resources or services at retail or sewer resources or services, shall grant a priority for the provision of these available and future resources or services to proposed developments that include housing units affordable to lower income households.

(b) On or before July 1, 2006, the public agency, or private entity providing services as provided in subdivision (a), shall ~~adopt a policy for allocation of services in conformance with this section. The priority established in subdivision (a) shall mean a priority over all other applicants for existing as well as future resources or services.~~ *adopt a written policy with specific objective standards for allocation of services in conformance with this section. The policy shall address, but not be limited to (1) how the need for housing for all income groups will be met, and (2) how water or sewer resources or services will be increased if necessary to meet the priority in subdivision (a).*

(c) The provider of water or sewer resources or services as provided in subdivision (a) shall not deny or condition the approval of an application for services, or reduce the amount of services applied for, if the denial, condition, or reduction is based in whole or in part on the inclusion of housing units affordable to lower income households.

~~(d) The provider of water or sewer resources or services shall reserve sufficient available existing and future resources or services to meet the shares of the regional housing need for very low and low-income households, as identified pursuant to paragraph (1) of subdivision (a) of Section 65583, for each city, county, and city and county within its jurisdiction. Resources or services may only be allocated from this reserve for housing units affordable to lower income households.~~

~~(e) When considering an application for any residential or nonresidential development that does not include housing affordable to lower income households, the public agency or private entity providing sewer or water resources or services to the proposed development shall not approve the application unless it makes a written determination that the provider has complied with this section.~~

~~(f) The following definitions apply for purposes of this section:~~

~~(1) “Available existing and future resources or services” means those that are not irrevocably committed by legally enforceable agreement, including those that will become available as a result of expansion or increase in capacity or reduction of the provision of resources or services to existing recipients.~~

~~(d) The following definitions apply for purposes of this section:~~

~~(2)~~
~~(1) “Housing units affordable to lower income households” means dwelling units that are sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code, and restricted by legally sufficient commitments to ensure continued availability of units to lower income households in accordance with the provisions of this subdivision for at least 30 years.~~

~~(2) “Water resources or services at retail” means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.~~

~~(g)~~
~~(e) This section is intended to neither enlarge nor diminish the existing authority of a city, county or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water resources or services at retail or sewer resources or services shall not invalidate any action or approval of a development project neither invalidate any action or approval of a development project nor exempt a public agency, private entity, or special district from the obligations under this section. The special districts which provide water resources or services at retail or sewer resources or services related to development, as defined in subdivision (e) of Section 56426, are included within this section.~~

~~(h) As used in this section, “water resources or services at retail” means supplying water directly to the end user or~~

~~consumer of that water, and does not include sale by a water
supplier to another water supplier for resale.~~

*(f) Any applicant for service, or a resident or organization
within the service area, may bring an action pursuant to Section
1085 or 1094.5 of the Code of Civil Procedure, as appropriate,
to enforce the provisions of this section. Relief granted pursuant
to an action shall include, but is not limited to, injunctive relief
and damages.*

(i)

*(g) The Legislature finds and declares that this section shall be
applicable to all cities and counties, including charter cities,
because the Legislature finds that the lack of affordable housing
is a matter of vital statewide importance.*

SEC. 2. The Legislature finds and declares that Sections
65104 and 66014 of the Government Code provide local agencies
with authority to levy fees sufficient to pay for the program or
level of service mandated by this act.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act, within the meaning of
Section 17556 of the Government Code.

However, if the Commission on State Mandates determines
that this act contains other costs mandated by the state,
reimbursement to local agencies and school districts for those
costs shall be made pursuant to Part 7 (commencing with Section
17500) of Division 4 of Title 2 of the Government Code.